

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DAMION ELLERBY,	:	CIVIL ACTION
Plaintiff,	:	
	:	
v.	:	
	:	
LEHIGH COUNTY PRISON, et al.,	:	NO. 20-CV-1330
Defendants.	:	

ORDER

AND NOW, this 17th day of April, 2020, upon consideration of Damion Ellerby's Motion to Proceed *In Forma Pauperis* (ECF No. 1), Prisoner Trust Fund Account Statement (ECF No. 3), and *pro se* Complaint (ECF No. 2), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Damion Ellerby, #153298, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Warden of the Lehigh County Prison or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Mr. Ellerby's inmate account; or (b) the average monthly balance in Mr. Ellerby's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Mr. Ellerby's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Mr. Ellerby's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is directed to **SEND** a copy of this Order to the Warden of the Lehigh County Prison.

4. The Complaint is **DEEMED** filed.

5. Mr. Ellerby's Complaint is **DISMISSED WITH PREJUDICE** for failure to state a claim, pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) and (ii) for the reasons stated in the Court's Memorandum.

6. The Clerk of Court shall **CLOSE** this case.

BY THE COURT:



GENE E.K. PRATTER, J.